

### **REMARKS**

Claims 1-22 are pending with this paper. Claims 1-19 are rejected by the Office Action. Applicant is amending claims 1-15, 18, and 19. Applicant requests reconsideration of the claims based on at least the arguments herein.

#### **Claim Rejections - 35 U.S.C. §102**

**Claims 15-16 and 18-19 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by US Publication No. 2004/0255333 (Kenworthy).**

Applicant is amending independent claim 15 to include the feature of “responsive to determining that the locally produced content is available and intended for local transmission, unconditionally preempting the backdrop programming and providing the locally produced content on the channel.” Applicant is similarly amending independent claim 18 to include the feature of “responsive to determining that the locally produced programming is available and intended for local transmission, unconditionally preempting the backdrop programming and providing the locally produced programming on the channel” and claim 19 to include the feature of “responsive to determining that the locally produced programming is available and intended for local transmission in a particular local area having the channel, unconditionally preempting the backdrop programming and providing the locally produced programming on the channel in the particular local area.”

Regarding claims 15, 18, and 19, the Office Action alleges that Kenworthy teaches that content in the received national bundle is unconditionally preempted by locally produced content because “No charges are applied for the presentation of locally produced content, given that the local headend is a regional affiliate.” (Office Action, pages 3-4). Applicant respectfully disagrees. Applicant cannot find any teaching in Kenworthy that suggests unconditional preemption by locally produced content. Whether or not charges are applied in Kenworthy is irrelevant to, and independent of, whether unconditional preemption occurs. Rather, Kenworthy merely discusses that “local integration headend 115 provides functionality for **optionally** and efficiently integrating the digital aggregated content bundle with regional or local programming content, local or regional advertising or other insertion content, telephony services, data services, and/or other video services, such as video-on-demand and video conferencing.” (Paragraph 0041.

Emphasis added.) Thus, this preemption is optional, not unconditional. Consequently, Kenworthy suggests an optional preemption process rather than an unconditional preemption process.

Independent claims 18 and 19 include similar features. Moreover, claim 16 depends from claim 15 and is thus not anticipated for at least the above reasons as well as the additional recited features. Applicant requests reconsideration of claims 15, 16, 18, and 19.

**Claim Rejections - 35 U.S.C. §103**

**Claims 1-14 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over US Publication No. 200310140353 (Hugenberg) in view of US Publication No. 200610041921 (Hane) in further view of Kenworthy.**

Applicant is amending claim 1 to include the feature of “responsive to determining that the locally produced PEG programming is available and intended for local transmission, unconditionally preempting the backdrop programming and providing the locally produced PEG programming on the PEG channel.” The amendment is supported by the specification as originally filed, *e.g.*, page 5, lines 15-28. Applicant is similarly amending independent claim 8 to include the feature of “responsive to determining that the locally produced PEG programming is available and intended for local transmission in a particular local area having the PEG channel, unconditionally preempting the backdrop programming and providing the locally produced PEG programming on the PEG channel in the particular local area.”

The combination of Hugenberg, Hane, and Kenworthy fails to teach or suggest the above features. Regarding claims 1 and 8, the Office Action again alleges that content in the received national bundle is unconditionally preempted by locally produced content because “No charges are applied for the presentation of locally produced content, given that the local headend is a regional affiliate.” As discussed previously, Applicant respectfully disagrees. Kenworthy merely discloses an optional preemption process rather than an unconditional preemption process. Moreover, claims 2-7 and 9-14 ultimately depend from claims 1 and 8, respectively, and are patentable for at least the above reasons as well as the additional recited features. Applicant thus requests reconsideration of claims 1-14.

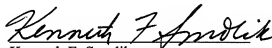
**Claim 17 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Kenworthy in view of US Publication No. 2006/0041921 (Hane).**

Claim 17 depends from claim 15. Hane fails to remedy the deficiencies of Kenworthy, and thus claim 17 is patentable for at least those reasons as discussed above with regard to claim 15 as well as the additional recited features.

All rejections have been addressed. Hence, it is respectfully submitted that the present application is in condition for allowance, and a notice to that effect is earnestly solicited.

Respectfully submitted,

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